

Notices of Exempt Rulemaking

sated costs for providing services to persons denied eligibility due to the closure of the AHCCCS Care program. This initiative is referred to as the Safety Net Care Pool (SNCP). The federal government has stated that it is willing to approve the proposal if, among other details, a portion of the contributions from political subdivisions is used to increase KidsCare enrollment for children in households with income at or under 175% of the federal poverty level. Under the draft terms of the proposal, the SNCP and the associated KidsCare eligibility will be terminated on January 1, 2014.

If CMS approves the SNCP proposal, AHCCCS will use its existing authority under Arizona session law to promulgate proposed exempt rules. Specifically, Arizona Laws 2011, 1st Special Session, Ch. 1, § 1, exempts AHCCCS from the requirements of Title 41, Chapter 6, Arizona Revised Statutes, through January 21, 2013 for the purpose of applying for waivers from the requirements of the Social Security Act and establishing standards, methods and procedures for determining eligibility necessary to implement a program within state and federal appropriations. AHCCCS has the authority, under A.R.S. § 36-2995, to accept donations from any source (including political subdivisions) for the support of the KidsCare program. Under A.R.S. § 36-2985, AHCCCS has the authority (subject to approval by the Governor) to begin processing new applications for KidsCare to the extent that funding permits. Because SNCP, as proposed to CMS, is funded through monies from political subdivisions and federal matching funds, it allows AHCCCS to establish reimbursement methodologies and increase enrollment of the KidsCare program without adversely impacting existing appropriations.

AHCCCS anticipates conducting exempt rulemaking to establish the standards, methods, and procedures for making a defined number of children on the KidsCare waiting list eligible using SNCP funds.

Final rulemaking is contingent upon CMS approval of a waiver and availability of political subdivision funding. In the event CMS does not approve the AHCCCS proposal then a Notice of Terminated Rulemaking will be filed.

- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

- 7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

- 8. The preliminary summary of the economic, small business, and consumer impact:**

Not applicable

- 9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

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- 10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Please submit comments to the contact person listed above, the comment period closes 5:00 p.m. April 20, 2012.

- 11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

None

- 12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

Not applicable

- 13. The full text of the rules follows:**

TITLE 9. HEALTH SERVICES

CHAPTER 31. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
CHILDREN'S HEALTH INSURANCE PROGRAM

Arizona Administrative Register / Secretary of State
Notices of Exempt Rulemaking

ARTICLE 4. ~~REPEALED~~ KIDSCARE II PROGRAM

Section

R9-31-401. ~~Repealed~~ KidsCare II Program

ARTICLE 4. ~~REPEALED~~ KIDSCARE II PROGRAM

R9-31-401. KidsCare II Program

- A.** Subject to CMS approval and the availability of funding under the special terms and conditions of the 1115 Waiver, the Administration shall establish the KidsCare II program.
- B.** Subject to the availability of funding, the following children are potentially eligible under this Section notwithstanding the closure of new enrollment under Article 3 on December 21, 2009, due to a lack of available funding:
- 1.** Children with household income at or below 175% of FPL, who are discontinued for eligibility under 9 A.A.C. 22, Article 14 effective on or after May 1, 2012, due to age.
 - 2.** Children with household income at or below 175% of FPL, whose application for assistance was denied or discontinued as ineligible under 9 A.A.C. 22 on or after December 21, 2009 but who were determined potentially eligible for KidsCare as of the date of that denial or discontinuance and whose eligibility for KidsCare was not determined because the Administration stopped processing applications due to insufficient funding pursuant to R9-31-301(C).
- C.** Beginning on or before May 1, 2012, the Administration shall send notice of potential eligibility under this Section to as many households with children described in subsection (B)(2) as is estimated by the Administration as likely to result in the return of a sufficient number of applications to increase enrollment under this Section to the extent of available funding under this Section.
- D.** Notice of potential eligibility:
- 1.** Children who were placed on the waiting list established under R9-31-302(F) on an earlier date shall receive notice before children placed on the waiting list on a later date.
 - 2.** Notwithstanding subsection (D)(1), all children in the household will receive notice and be determined for eligibility based on the child in the household with the earliest applicable date.
 - 3.** Households shall have 30 days to return an application to the Department.
 - 4.** If notices that are initially sent under subsection (C) do not result in sufficient applications to enroll as many children as allowed by available funding, the Administration shall send out additional notices as described in subsection (C).
 - 5.** Once the Administration has enrolled the maximum number of children consistent with funding made available under this Section, the Administration shall stop processing applications and determining eligibility under this Section.
- E.** The Department shall review all applications for a determination of eligibility under 9 A.A.C. 22. If the Department determines that a child is not eligible under 9 A.A.C. 22 but has income at or below 175% of FPL and meets all other eligibility criteria under R9-31-303, the Department shall refer the application to the Administration.
- F.** The Administration shall accept the Department's determinations regarding eligibility criteria without requiring the household to submit a new application under this Section or to re-verify information verified by the Department.
- G.** Upon referral of an application from the Department, the Administration shall:
- 1.** Determine whether the application referred by the Department was from a household with a child described in subsection (B)(1) or from a household that received a notice under subsection (D) that submitted an application to the Department within 30 days of the Administration's request for a new application;
 - 2.** Determine whether the household has any unpaid premiums as described in R9-31-1420 and, if so, the Administration shall require the household to pay the past due premium within 20 days from notification as a condition of determining a child eligible under this Section; and
 - 3.** Enroll children under this Section based on the date that the Administration determines the child eligible.
- H.** Effective date of initial enrollment.
- 1.** For an eligibility determination completed by the 25th day of the month, enrollment shall begin on the first day of the month following the determination of eligibility.
 - 2.** For an eligibility determination completed after the 25th day of the month, enrollment shall begin on the first day of the second month following the determination of eligibility.
- I.** Any child who is not determined eligible under subsection (G) shall remain on the waiting list described in R9-31-301(F).
- J.** Eligibility for children under this Section ends on December 31, 2013.
- K.** Except as otherwise provided by this Section, eligibility shall be determined in accordance with the provisions of this Chapter.